

REMARKS/ARGUMENTS

This amendment is in substitution for and replaces the amendment filed June 21, 2005.

Favorable reconsideration of this application is requested in view of the amendments made above and the remarks that follow. A petition and fee extending the time for response to July 21, 2005, are attached hereto.

Applicant acknowledges and appreciates the indicated allowability of claims 10-12 if rewritten in independent form to include the limitations of the base claim and any intervening claims. Base claim 1 has been amended to incorporate the subject matter of dependent claim 10 and intervening claim 9. Accordingly, claim 1 and the claims dependent therefrom (which comprise all the claims in the application) should now be allowable.

Refusal to enter the amendment filed June 21, 2005, is in error. Refusal was based on the grounds that “indicia” and “tubing” in lines 1 and 2 of new claim 17 raise new issues that require further consideration and searching. However, “indicia” was claimed in original claim 2 and in claim 16 added by timely amendment, and both of these claims were considered, searched, and acted upon by the examiner. In addition, “tubing” was claimed in original claim 11, which was considered, searched, and acted upon by the examiner. This terminology therefore does not introduce new issues requiring further search and/or consideration. Moreover, even if this terminology did raise a new issue, claim 17 depends from an allowable base claim and is allowable along with the base claim. No further searching or consideration would be required.

The term “tubing” in lines 2 and 3 of claim 17 is perhaps objectionable on the grounds of lack of proper antecedent basis, a formality that could have been corrected by examiner’s amendment to change the word “tubing” to “IV line”, if necessary. But as discussed above, this word does not raise new issues requiring further search and/or consideration such as to justify refusal to enter the amendment.

The objection to new claim 17 as presented in the amendment filed April 22, 2005, and refusal to enter that amendment on the grounds that it raised new issues requiring further consideration and additional searching also was in error. The objection was based on the language in lines 6-7 of that claim calling for “a plurality of spaced apart openings formed

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through said at least one wing in inwardly spaced relationship to said outer end edge". However, this language was in original claim 4, which depended from original claim 1. That is, original claim 1 called for a marginal edge portion with an outer end edge and the openings formed through the marginal edge portion in spaced relation to the outer end edge. Claim 4, dependent from claim 1, called for a pair of marginal edge portions and further defined the marginal edge portions as spaced apart, opposed wings. Thus, the language objected to by the examiner in new claim 17 presented in the earlier filed amendment did not present any new issues requiring further search and/or consideration. This language was in the claims as originally filed, and in fact was in claim 10 that the examiner considered allowable, except that the marginal edge portion was not defined as a "wing".

Applicant in this case is not a "mega bucks" corporation, and unnecessary prosecution creates a financial hardship on the applicant. Refusal to enter the two amendments filed April 22 and June 21, 2005, on unsustainable grounds resulted in unnecessary prosecution and concomitant costs to applicant.

In order to advance the prosecution of this application and without any intention to give up the subject matter of claims 17 and 18 as presented in the amendment filed June 21, 2005, applicant has cancelled claims 17 and 18, leaving in the application only claims previously indicated as allowable. Accordingly, this application should now be in condition for allowance, which action is requested.

Respectfully submitted,
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